



STATE OF TENNESSEE
DEPARTMENT OF COMMERCE AND INSURANCE
500 JAMES ROBERTSON PARKWAY
NASHVILLE, TENNESSEE 37243
(615) 741-9730

November 17, 2021

Fiscal Review Committee
8th Floor Rachel Jackson Building
Nashville, Tennessee 37243

Re: Proposed Amendment 2 for Contract NV57899 – MCP Acquisition Corp. dba Mission Critical Partners, LLC

Dear Fiscal Review Committee:

The following information is provided in support of the proposed amendment submitted for consideration and approval of the Fiscal Review Committee.

Procurement Purpose

The Department of Commerce and Insurance, Emergency Communications Board (the "TECB"), was created for the purpose of assisting emergency communications district ("ECD") boards of directors in the area of management, operations, and accountability, and establishing emergency communications for all citizens of the state. In July 2018, the TECB entered into Contract NV57899 with Mission Critical Partners, LLC ("MCP") to secure technical services to assist emergency communications district boards of directors with management, operations and accountability, and establishing emergency communications for all citizens of the State of Tennessee in accordance with Tenn. Code Ann. § 7-86-302(a). The Contract provides advisory technical support and assistance to any emergency communications district upon request and ensured that 911 service was established throughout the State of Tennessee pursuant to standards set forth in Tenn. Code Ann. § 7-86-303(d)(3) and Tenn. Code Ann. § 7-86-306(a)(7). In addition, the Contract provides technical advice and information needed by the State of Tennessee in the exercise of its authority to enter into contracts and purchases and otherwise fulfill its statutory duties pursuant to Tenn. Code Ann. § 7-86-306.

Since entering this Contract, MCP has been and continues to be essential to the TECB in fulfilling its duties to the ECDs. MCP assists the TECB staff in a wide range of tasks, including holding vendor due diligence meetings and assisting with drafting for a RFP for a new next-generation ("NG911") core network, grant application and distribution management, surveying the ECDs on TECB performance and potential changes to the TECB revenue standards, drafting and updating the TECB's strategic plan, creating a statewide radio

inventory database, creating and updating our one page information sheets on various ongoing TECB projects, and the generation of reports and presentations, as requested.

Justification for Proposed Contract Amendment 2

A. Initial MCP Contract

On August 9, 2019, the National Highway Traffic Safety Administration awarded the State of Tennessee, through the TECB, a one-time grant of \$3,033,279 under its 911 Grant Program, as authorized by the Next Generation 911 (“NG911”) Advancement Act of 2012. The 911 Grant Program provided Federal funding to help 911 call centers nationwide upgrade equipment and operations so that citizens, first responders, and 911 call-takers can use digital, IP-based, broadband-enabled technologies to coordinate emergency responses.

As part of the application process for the 911 Grant Program, the TECB submitted plans and a schedule for the use of the Federal grant funds and the required match of State funds. Part of the TECB’s plans were to provide redundant NG911 connections to a call center in each of the 100 ECDs. However, after the award of the grant, AT&T, the State’s current NG911 network provider, informed the TECB that after additional review it would not be able to provide the redundant connections within the March 2022 grant deadline. The TECB began to research and explore other potential projects, including cybersecurity assessments, that could be accomplished within the grant timeline and requirements.

B. Amendment 1

At its regular meeting on November 7, 2019, the TECB authorized up to \$1.5 million of the grant funds to be utilized for cybersecurity assessments. The TECB identified that MCP could perform the cybersecurity assessments under the service offerings of the existing contract. The 911 Grant Program office approved the amended TECB’s grant plan and schedule on January 13, 2020. Amendment 1 added a billing mechanism for the cybersecurity assessment services and was approved by waiver in May 2020.

C. Amendment 2

In February 2021, the TECB identified expanded cybersecurity assessments based on the success of the program and as a method to expend the federal NG911 grant funds. Due to the time constraints of the grant and the high level of participation of the initial cybersecurity assessments, the TECB authorized an additional \$1.7 million to allow a second cybersecurity assessment and penetration test for each Emergency Communications District (“ECD”). Most ECDs in the State are unable to afford an annual assessment as is recommended by the National Institute for Standards and Technology (“NIST”). The 911 Grant Program afforded the ECDs a unique opportunity to gain a good understanding of their vulnerabilities and mitigate their determined risks as they relate to the growing number of cyber-attacks. Currently, 103 cybersecurity assessments are planned or completed for 911-Public Safety Answering Points (PSAPs) in 81 ECDs, and 33 ECDs have penetration testing planned or completed based on the federal grant funds. This Amendment will allow the TECB to reach out to even more ECDs and PSAPs to provide cybersecurity assessments and penetration testing to reduce their risk of cyber-attacks in the State.

Please advise if you have any questions or the Committee requires any additional information.

Respectfully,

A handwritten signature in black ink, appearing to read 'Ben Glover', with a long horizontal flourish extending to the right.

Benjamin Glover

Assistant Director & General Counsel

Tennessee Emergency Communications Board

(615) 770-3849

Benjamin.Glover@tn.gov

cc:

- Karen Conway, Sourcing Account Specialist
- Laura Hartsfield Associate General Counsel & Supervising Procurement Attorney
- Alex Lewis, Senior Advisor and Assistant Commissioner

Supplemental Documentation Required for Fiscal Review Committee

*Contact Name:	Laura Hartsfield	*Contact Phone:	(615) 532-6308		
*Presenter's name(s):	Curtis Sutton , Executive Director for the Tennessee Emergency Communications Board ("TECB") Benjamin Glover , Assistant Director & General Counsel for TECB				
Edison Contract Number: <i>(if applicable)</i>	NV57899	RFS Number: <i>(if applicable)</i>	N/A. Amendment not entered into Edison yet.		
*Original or Proposed Contract Begin Date:	July 1, 2018	*Current or Proposed End Date:	June 30, 2023		
Current Request Amendment Number: <i>(if applicable)</i>	Amendment 2				
Proposed Amendment Effective Date: <i>(if applicable)</i>	As soon as all required approvals are obtained.				
*Department Submitting:	Department of Commerce and Insurance				
*Division:	Tennessee Emergency Communications Board ("TECB")				
*Date Submitted:	November 17, 2021				
*Submitted Within Sixty (60) days:	Yes				
<i>If not, explain:</i>					
*Contract Vendor Name:	MCP Acquisition Corp. dba Mission Critical Partners, LLC				
*Current or Proposed Maximum Liability:	\$3,406,669.72 (Current Max Liability) \$5,206,669.72 (Proposed Max. Liability)				
*Estimated Total Spend for Commodities:	N/A				
*Current or Proposed Contract Allocation by Fiscal Year: <i>(as Shown on Most Current Fully Executed Contract Summary Sheet)</i>					
FY: 2019	FY: 2020	FY: 2021	FY: 2022	FY2023	
\$379,469.72	\$681,800.00	\$1,281,800.00	\$681,800.00	\$381,800.00	
* Current Total Expenditures by Fiscal Year of Contract: <i>(attach backup documentation from Edison)</i>					
FY: 2019	FY: 2020	FY: 2021	FY: 2022	FY: 2023	
\$365,359.46*	\$477,926.63	\$1,668,555.00	\$626,064.42 (spend to 11.15.21)	N/A	
* The amount for FY2019 reflected in Edison has been adjusted by \$152,211.87. Invoice 35567 (\$102,211.87) and Invoice 35568 (\$50,000.00) were paid under this grant contract; however, the payments applied to a different grant. Those payments have been corrected but are not reflected in Edison yet.					
IF Contract Allocation has been greater than Contract Expenditures, please give the reasons and explain where surplus funds were spent:			Contract Allocation has not been greater than Contract Expenditures.		
IF surplus funds have been carried			There are no surplus funds that have carried over for		

Supplemental Documentation Required for Fiscal Review Committee

forward, please give the reasons and provide the authority for the carry forward provision:	this contract.								
<p>IF Contract Expenditures exceeded Contract Allocation, please give the reasons and explain how funding was acquired to pay the overage:</p>	<p>Contract Expenditures exceeded Contract Allocations due to the TECB's award of a Federal grant Fiscal Year 2020 and several catastrophic and unforeseen events that occurred within the State during Fiscal Year 2021.</p> <p>Federal grant funds were awarded to TECB on August 9, 2019, for its Next Generation 911 ("NG911") cybersecurity proposal. A portion of the federal grant funds were used to conduct an initial round of cybersecurity testing.</p> <p>Due to the time constraints of the federal grant and the high level of participation with the initial cybersecurity assessments, TECB proposed to expand its assessments and penetration testing for Emergency Communication Districts by utilizing the rest of the federal grant funds for the project.</p> <p>In Fiscal Year 2021, Tennessee experienced two tornados and the beginning of the Covid-19 pandemic. These events required the TECB to utilize additional resources to provide enhanced services to the state and local emergency communications district. In addition, the Christmas Day bombing impacted 911 operations statewide and required significant additional 911 resources.</p>								
*Contract Funding Source/Amount:									
<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 25%; text-align: right; padding-right: 10px;">State:</td> <td style="width: 35%; padding: 5px;">61.8%</td> <td style="width: 25%; text-align: right; padding-right: 10px;">Federal:</td> <td style="width: 15%; padding: 5px;">38.2%</td> </tr> </table>	State:	61.8%	Federal:	38.2%	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 25%; text-align: right; padding-right: 10px;">Interdepartmental:</td> <td style="width: 35%; padding: 5px;">N/A</td> <td style="width: 25%; text-align: right; padding-right: 10px;">Other:</td> <td style="width: 15%; padding: 5px;">N/A</td> </tr> </table>	Interdepartmental:	N/A	Other:	N/A
State:	61.8%	Federal:	38.2%						
Interdepartmental:	N/A	Other:	N/A						
If "other" please define:	N/A								
If "interdepartmental" please define:	N/A								
Dates of All Previous Amendments or Revisions: <i>(if applicable)</i>	Brief Description of Actions in Previous Amendments or Revisions: <i>(if applicable)</i>								
Amendment 1 (approved by FRC waiver on 5/21/20)	Maximum liability increase. Revised Payment Methodology (Section C.3.) to reflect Cybersecurity Assessment and Penetration Testing service								

Supplemental Documentation Required for
Fiscal Review Committee

	descriptions.
Method of Original Award: <i>(if applicable)</i>	RFP #33501-185001 for E911 Technical Consulting
*What were the projected costs of the service for the entire term of the contract prior to contract award? How was this cost determined?	The projected costs of service for the entire term of the contract prior to the award were \$1,909,000. These costs were based upon costs of similar services for the same duration of time from previous contracts with consulting companies and with increases for inflation.
*List number of other potential vendors who could provide this good or service; efforts to identify other competitive procurement alternatives; and the reason(s) a sole-source contract is in the best interest of the State.	N/A. This contract was competitively bid through the RFP process.

Sel	Version	Type	BU	ID	Status	Reference	Release	Amount
	1	PO Release	33501	28731	Dispatched	INV# 6973	1	92,250.13
	1	PO Release	33501	28731	Dispatched	INV# 6973	2	9,961.74
	1	PO Release	33501	29124	Complete	INV# 7128	3	55,850.25
	1	PO Release	33501	29201	Complete	INV# 7262	4	41,493.50
	1	PO Release	33501	29201	Complete	INV# 7262	5	2,303.33
	1	PO Release	33501	29464	Complete	INV# 7550	6	29,042.25
	1	PO Release	33501	29464	Complete	INV# 7550	7	870.04
	1	PO Release	33501	29546	Complete	INV# 7686	8	20,421.75
	1	PO Release	33501	29676	Complete	INV# 7861	9	25,414.75
	1	PO Release	33501	29676	Complete	INV# 7861	10	2,762.81
	1	PO Release	33501	29884	Complete	INV# 8055	11	18,726.00
	1	PO Release	33501	29884	Complete	INV# 8055	12	900.89
	1	PO Release	33501	29937	Complete	INV# 8138	13	23,552.75
	1	PO Release	33501	30252	Complete	INV# 8336	14	33,650.25
	1	PO Release	33501	30252	Complete	INV# 8336	15	3,272.30
	1	PO Release	33501	30359	Complete	INV# 8465	16	23,506.75
	1	PO Release	33501	30506	Complete	INV# 8613	17	22,585.75
	1	PO Release	33501	30805	Complete	INV# 8789	18	30,919.75
	1	PO Release	33501	30805	Complete	INV# 8789	19	3,261.43
	1	PO Release	33501	30976	Complete	INV# 8921	20	38,793.50
	1	PO Release	33501	30976	Complete	INV# 8921	21	2,141.67
	1	PO Release	33501	31172	Complete	INV# 9056	22	16,289.75
	1	PO Release	33501	31419	Complete	INV# 9235	23	38,500.25
	1	PO Release	33501	31419	Complete	INV# 9235	24	2,203.57
	1	PO Release	33501	31646	Complete	INV# 9436	25	47,165.50
	1	PO Release	33501	31646	Complete	INV# 9436	26	6,159.09
	1	PO Release	33501	31704	Complete	9554	27	22,133.25
	1	PO Release	33501	31704	Complete	9554	28	831.82
	1	PO Release	33501	31923	Complete	INV# 9770	29	57,735.50
	1	PO Release	33501	31923	Complete	INV# 9770	30	7,068.18
	1	PO Release	33501	31981	Complete	INV# 9902	31	42,175.75
	1	PO Release	33501	32116	Complete	MCP INV# 10072	32	55,872.25
	1	PO Release	33501	32290	Complete	INV#10241	33	41,120.75
	1	PO Release	33501	32290	Complete	INV#10241	34	3,107.62
	1	PO Release	33501	32574	Complete	Invoice # 10465	35	31,443.75
	1	PO Release	33501	32622	Complete	Invoice # 10600	36	31,003.25
	1	PO Release	33501	32721	Complete	Invoice # 10766	37	34,580.25
	1	PO Release	33501	32888	Complete	Invoice #10956	38	39,529.00
	1	PO Release	33501	33065	Complete	Invoice #11058	39	38,725.75
	1	PO Release	33501	33297	Complete	Invoice #11061	42	1,500.00
	1	PO Release	33501	33297	Complete	Invoice #11061	43	12,500.00
	1	PO Release	33501	33466	Complete	Invoice #11242	44	28,346.00
	1	PO Release	33501	33467	Complete	Invoice #11243	45	158,000.00

	1	PO Release	33501	33601	Complete	Invoice #11432	46	18,945.25
	1	PO Release	33501	33638	Complete	Invoice #11433	47	86,000.00
	1	PO Release	33501	33769	Complete	Invoice #11574	48	210,000.00
	1	PO Release	33501	33772	Complete	Invoice #11575	49	23,900.25
	1	PO Release	33501	33893	Complete	Invoice #11727	50	16,078.75
	1	PO Release	33501	33894	Complete	Invoice #11728	51	226,000.00
	1	PO Release	33501	34029	Complete	Invoice #11949	52	182,000.00
	1	PO Release	33501	34030	Complete	Invoice #11930	53	17,908.25
	1	PO Release	33501	34128	Complete	Invoice #12035	54	31,662.00
	1	PO Release	33501	34129	Complete	Invoice #12036	55	14,000.00
	1	PO Release	33501	34316	Complete	Invoice #12197	56	21,250.25
	1	PO Release	33501	34317	Complete	Invoice #12196	57	116,500.00
	1	PO Release	33501	34457	Complete	Invoice # 12487	58	80,776.75
	1	PO Release	33501	34458	Complete	Invoice #12461	59	114,500.00
	1	PO Release	33501	34548	Complete	Invoice #12606	60	50,000.00
	1	PO Release	33501	34551	Complete	Invoice #12605	61	145,852.50
	1	PO Release	33501	34577	Complete	Invoice #12606	62	50,000.00
	1	PO Release	33501	34676	Complete	Invoice #12836	63	75,222.25
	1	PO Release	33501	34676	Complete	Invoice #12836	64	544.12
	1	PO Release	33501	34677	Complete	Invoice #12831	65	75,000.00
	1	PO Release	33501	35050	Complete	Invoice #13022	66	79,617.50
	1	PO Release	33501	35051	Complete	Invoice #13023	67	204,000.00
	1	PO Release	33501	35199	Complete	Invoice #13156	70	91,463.25
	1	PO Release	33501	35199	Complete	Invoice #13156	71	2,298.27
	1	PO Release	33501	35368	Complete	Invoice #13408	72	41,732.00
	1	PO Release	33501	35368	Complete	Invoice #13408	73	2,361.94
	1	PO Release	33501	35520	Dispatched	Invoice #13593	74	39,000.00
	1	PO Release	33501	35540	Dispatched	Invoice #13599	76	13,558.00
	1	PO Release	33501	35540	Dispatched	Invoice #13599	77	1,267.09
	1	PO Release	33501	35567	Complete	33501-205003 Amd 1	78	-102,211.87
	1	PO Release	33501	35568	Complete	33501-205003 Amd 1	79	-50,000.00

\$ 3,076,899.42

Amendment Request

This request form is not required for amendments to grant contracts. Upload the completed document and route for approvals by selecting the Amendment Request e-Form in Edison. For additional guidance, please see the e-Forms Job Aid available online at the following: <https://www.teamtn.gov/cpo/learning-development/cpo-job-aids.html>.

APPROVED

CHIEF PROCUREMENT OFFICER

DATE

Agency request tracking #	33501-225003	
1. Procuring Agency	Department of Commerce and Insurance	
2. Contractor	MCP Acquisition Corp. dba Mission Critical Partners LLC	
3. Edison contract ID #	NV57899	
4. Proposed amendment #	2	
5. Contract's Original Effective Date	July 1, 2018	
6. Current end date	June 30, 2023	
7. Proposed end date	June 30, 2023	
8. Current Maximum Liability or Estimated Liability	\$ 3,406,669.72	
9. Proposed Maximum Liability or Estimated Liability	\$ 5,206,669.72	
10. Strategic Technology Solutions Pre-Approval Endorsement Request – information technology service (N/A to THDA)	<input checked="" type="checkbox"/> Not Applicable <input type="checkbox"/> Attached	
11. Human Resources Pre-Approval Endorsement Request – state employee training service	<input checked="" type="checkbox"/> Not Applicable <input type="checkbox"/> Attached	
12. Explain why the proposed amendment is needed To increase the maximum liability for Next Generation 911 technical consulting services for the Emergency Communications Board.		
13. If the amendment involves a change in Scope, describe efforts to identify reasonable, competitive, procurement alternatives to amending the contract. There is no change in scope. The only change is an increase in the maximum liability.		

Agency request tracking #	33501-225003
Signature of Agency head or authorized designee, title of signatory, and date (the authorized designee may sign his or her own name if indicated on the Signature Certification and Authorization document)	

DRAFT



CONTRACT AMENDMENT COVER SHEET

Agency Tracking # 33501-225003	Edison ID NV57899	Contract # NV57899	Amendment # 2
Contractor Legal Entity Name MCP Acquisition Corp. dba Mission Critical Partners LLC			Edison Vendor ID 218951
Amendment Purpose & Effect(s) To increase the maximum liability for Next Generation 911 technical consulting services for Emergency Communications Board			
Amendment Changes Contract End Date: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		End Date: June 30, 2023	
TOTAL Contract Amount INCREASE or DECREASE per this Amendment (zero if N/A):			\$ 1,800,000.00
Funding —			
FY	State	Federal	Interdepartmental
2019	\$365,359.46		
2020	\$416,997.83	\$60,928.80	
2021	\$770,316.60	\$898,238.40	
2022	\$1,264,525.43	\$1,030,303.20	
2023	\$400,000.00		
TOTAL:	\$5,206,669.72		
Budget Officer Confirmation: There is a balance in the appropriation from which obligations hereunder are required to be paid that is not already encumbered to pay other obligations.		CPO USE	
Speed Chart (optional)		Account Code (optional)	

**AMENDMENT TWO
OF CONTRACT NV57899**

This Amendment is made and entered by and between the State of Tennessee, Department of Commerce and Insurance, hereinafter referred to as the "State" and MCP Acquisition Corp. dba Mission Critical Partners LLC, hereinafter referred to as the "Contractor." For good and valuable consideration, the sufficiency of which is hereby acknowledged, it is mutually understood and agreed by and between said, undersigned contracting parties that the subject contract is hereby amended as follows:

C. Contract Section C.1. Maximum Liability is deleted in its entirety and replaced with the following:

C.1. Maximum Liability. In no event shall the maximum liability of the State under this Contract exceed five million two hundred six thousand six hundred sixty-nine dollars and seventy-two cents (\$5,206,669.72) ("Maximum Liability"). This Contract does not grant the Contractor any exclusive rights. The State does not guarantee that it will buy any minimum quantity of goods or services under this Contract. Subject to the terms and conditions of this Contract, the Contractor will only be paid for goods or services provided under this Contract after a purchase order is issued to Contractor by the State or as otherwise specified by this Contract.

Required Approvals. The State is not bound by this Amendment until it is signed by the contract parties and approved by appropriate officials in accordance with applicable Tennessee laws and regulations (depending upon the specifics of this contract, said officials may include, but are not limited to, the Commissioner of Finance and Administration, the Commissioner of Human Resources, and the Comptroller of the Treasury).

Amendment Effective Date. The revisions set forth herein shall be effective once all required approvals are obtained. All other terms and conditions of this Contract not expressly amended herein shall remain in full force and effect.

IN WITNESS WHEREOF,

MCP ACQUISITION CORP. DBA MISSION CRITICAL PARTNERS LLC:

SIGNATURE

DATE

PRINTED NAME AND TITLE OF SIGNATORY (above)

DEPARTMENT OF COMMERCE AND INSURANCE:

CARTER LAWRENCE, COMMISSIONER

DATE



CONTRACT AMENDMENT COVER SHEET

Agency Tracking # 33501-205003	Edison ID NV57899	Contract # NV57899	Amendment # 1		
Contractor Legal Entity Name Mission Critical Partners, LLC			Edison Vendor ID 218951		
Amendment Purpose & Effect(s) Permit the PSAP Cybersecurity Assessment as a result of Federal Grant funds received					
Amendment Changes Contract End Date: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		End Date: June 30, 2023			
TOTAL Contract Amount INCREASE or DECREASE <u>per this Amendment</u> (zero if N/A):			\$1,497,669.72		
Funding —					
FY	State	Federal	Interdepartmental	Other	TOTAL Contract Amount
2019	\$379,469.72				\$379,469.72
2020	\$681,800.00				\$681,800.00
2021	\$1,281,800.00				\$1,281,800.00
2022	\$681,800.00				\$681,800.00
2023	\$381,800.00				\$381,800.00
TOTAL:	\$3,406,669.72				\$3,406,669.72
Budget Officer Confirmation: There is a balance in the appropriation from which obligations hereunder are required to be paid that is not already encumbered to pay other obligations. <i>James Paul Hartbarger</i>			CPO USE		
Speed Chart (optional) 3350800911	Account Code (optional) 70803010				

**AMENDMENT 1
OF CONTRACT NV57899**

This Amendment is made and entered by and between the State of Tennessee, Department of Commerce and Insurance, hereinafter referred to as the "State" and Mission Critical Partners, LLC, hereinafter referred to as the "Contractor." For good and valuable consideration, the sufficiency of which is hereby acknowledged, it is mutually understood and agreed by and between said, undersigned contracting parties that the subject contract is hereby amended as follows:

PREAMBLE

1. Contract Section C.1. is deleted in its entirety and replaced with the following:

C.1. **Maximum Liability.** In no event shall the maximum liability of the State under this Contract exceed three million four hundred six thousand six hundred sixty-nine dollars and seventy-two cents (\$3,406,669.72) ("Maximum Liability"). This Contract does not grant the Contractor any exclusive rights. The State does not guarantee that it will buy any minimum quantity of goods or services under this Contract. Subject to the terms and conditions of this Contract, the Contractor will only be paid for goods or services provided under this Contract after a purchase order is issued to Contractor by the State or as otherwise specified by this Contract.

2. Contract Section C.3. is deleted in its entirety and replaced with the following:

C.3. **Payment Methodology.** The Contractor shall be compensated based on the payment methodology for goods or services authorized by the State in a total amount as set forth in Section C.1.

- a. The Contractor's compensation shall be contingent upon the satisfactory provision of goods or services as set forth in Section A.
- b. The Contractor shall be compensated based upon the following payment rates:
 - (1) For service performed from July 1, 2018 through June 30, 2021, the following rates shall apply:

Goods or Services Description	Amount* (per compensable increment)
Executive consulting and support services	\$258.00 per hour
Project Manager consulting and support services	\$219.00 per hour
Senior Technical consulting and support services	\$212.00 per hour
Junior Technical consulting and support services	\$185.00 per hour
Administrative support services	\$97.00 per hour
Cybersecurity Assessment Small PSAP (15 positions or fewer)	\$14,000.00
Cybersecurity Assessment Large PSAP (16+ positions)	\$30,000.00
Penetration Test with Phishing Exercise Small PSAP (15 positions or fewer)	\$5,500.00
Penetration Test with Phishing Exercise Large PSAP (16+ positions)	\$7,000.00

- (2) For service performed from July 1, 2021, through June 30, 2023, the Contractor shall be compensated based upon the payment rates in Section Reference (e.g., C.3.b.(1)) above but adjusted by the percentage increase, if any, between the Consumer Price Index for All Urban Consumers (CPI-U): U.S. city average, All Items /Medical Care expenditure category, not seasonally adjusted, index base period: 1982-84=100) published by the United States Department of Labor, Bureau of

Labor Statistics in June 2021 and that figure published in the same month, 12-months prior, up to a maximum of five percent (5%).

- c. The Contractor shall not be compensated for travel time to or from the primary location services are provided.

Required Approvals. The State is not bound by this Amendment until it is signed by the contract parties and approved by appropriate officials in accordance with applicable Tennessee laws and regulations (depending upon the specifics of this contract, said officials may include, but are not limited to, the Commissioner of Finance and Administration, the Commissioner of Human Resources, and the Comptroller of the Treasury).

Amendment Effective Date. The revisions set forth herein shall be effective once all required approvals are obtained. All other terms and conditions of this Contract not expressly amended herein shall remain in full force and effect.

IN WITNESS WHEREOF,

MISSION CRITICAL PARTNERS, LLC:



5/26/2020

SIGNATURE

DATE

R. Kevin Murray, Chief Executive Officer

PRINTED NAME AND TITLE OF SIGNATORY (above)

DEPARTMENT OF COMMERCE AND INSURANCE:


Hodgen Mainda (Jun 5, 2020 12:46 CDT)

Jun 5, 2020

HODGEN MAINDA, COMMISSIONER

DATE



CONTRACT

(fee-for-goods or services contract with an individual, business, non-profit, or governmental entity of another state)

Begin Date July 1, 2018	End Date June 30, 2023	Agency Tracking # 33501-185006	Edison Record ID NV57899
Contractor Legal Entity Name Mission Critical Partners, LLC			Edison Vendor ID 218951

Goods or Services Caption (one line only)
Next Generation 9-1-1 Technical Consulting Services for the Tennessee Emergency Communications Board

Contractor <input checked="" type="checkbox"/> Contractor	CFDA #
---	---------------

Funding —					
FY	State	Federal	Interdepartmental	Other	TOTAL Contract Amount
2019	\$381,800.00				\$381,800.00
2020	\$381,800.00				\$381,800.00
2021	\$381,800.00				\$381,800.00
2022	\$381,800.00				\$381,800.00
2023	\$381,800.00				\$381,800.00
TOTAL:	\$1,909,000.00				\$1,909,000.00


Contractor Ownership Characteristics:

- ☐ Minority Business Enterprise (MBE):
☐ African American ☐ Asian American ☐ Hispanic American ☐ Native American
- ☐ Woman Business Enterprise (WBE)
- ☐ Tennessee Service Disabled Veteran Enterprise (SDVBE)
- ☐ Disabled Owned Business (DSBE)
- ☐ Tennessee Small Business Enterprise (SBE): \$10,000,000.00 averaged over a three (3) year period or employs no more than ninety-nine (99) employees.
- ☐ Government ☐ Non-Minority/Disadvantaged ☐ Other:

Selection Method & Process Summary (mark the correct response to confirm the associated summary)

- ☒ Competitive Selection This Contract resulted from a Request for Proposals pursuant to Tenn. Comp. R. & Regs. 0690-03-01.05(2).
- ☐ Other

Budget Officer Confirmation: There is a balance in the appropriation from which obligations hereunder are required to be paid that is not already encumbered to pay other obligations.


Speed Chart (optional)
3350800911

Account Code (optional)
70803010

**CONTRACT
BETWEEN THE STATE OF TENNESSEE,
DEPARTMENT OF COMMERCE AND INSURANCE
AND
MISSION CRITICAL PARTNERS, LLC**

This Contract, by and between the State of Tennessee, Department of Commerce and Insurance ("State") and Mission Critical Partners, LLC ("Contractor"), is for the provision of Next Generation 9-1-1 technical consulting services, as further defined in the "SCOPE." State and Contractor may be referred to individually as a "Party" or collectively as the "Parties" to this Contract.

The Contractor is a limited liability company.
Contractor Place of Incorporation or Organization: Delaware
Contractor Edison Registration ID # 218951

A. SCOPE:

- A.1. The Contractor shall provide all goods or services and deliverables as required, described, and detailed below and shall meet all service and delivery timelines as specified by this Contract.
- A.2. The Contractor shall provide general technical, financial and operational advice and assistance, as authorized by the State, to the Tennessee Emergency Communications Board (TECB), the Emergency Communications Districts (ECDs) on matters related to the operation of ECDs and/or Public Safety Answering Points (PSAPs) therein, including but not limited to the planning, implementation, operation, maintenance, support, evolution and enhancement of Next Generation 9-1-1 (NG9-1-1), the State's project to modernize the Tennessee's 911 infrastructure.
- A.3. The Contractor shall provide technical advice and assistance to the State upon request regarding the planning, implementation, operation, maintenance, support, evolution and enhancement of emergency communications in Tennessee and the State's compliance with applicable orders of the Federal Communications Commission (FCC).
- A.4. The Contractor shall provide financial and operational advice and assistance to the State, upon request.
- A.5. At the request of the State, the Contractor shall audit the collection and remittance of 911 surcharges by providers of telephone, commercial mobile radio or voice over internet protocol service.
- A.6. Along with the services requested in Section A.2. through A.5., the State may request the Contractor to perform the following duties during the term of this Contract:
 - a. The Contractor shall provide an inventory and assessment of the equipment in ECDs and/or PSAPs, which include but are not limited to manufacturers' names and model information, approximate date of installation, the current operating condition of the system, and the projected remaining life cycle of the system. The inventory and assessment shall be submitted with the report contemplated in Section A.6.I.
 - b. The Contractor shall report to the State the allocation of human resources in ECDs and PSAPs.
 - c. The Contractor shall analyze and prepare a schematic drawing showing the connectivity, integration and/or interfacing of the various components of PSAP equipment in an ECD. At a minimum, such systems and the analysis thereof shall include telephone switching systems, [REDACTED] logging and instant recall recorders, computer aided

dispatch, emergency medical dispatch, UPS, and generator systems. The schematic drawing shall be included in the report contemplated in Section A.6.I.

- d. The Contractor shall respond to inquiries as authorized by the State, regarding connectivity, integration and/or interfacing of the various components of PSAP equipment in an ECD.
- e. The Contractor shall review ECD call records to determine the volume of 911 and N-G-911 calls, if available;
- f. The Contractor shall determine the percentage of calls dispatched to each local emergency, law enforcement or other government agency, to be included in the report contemplated in A.6.I below, if requested by the State.
- g. The Contractor shall analyze the type of response method utilized by ECDs (i.e., direct vs. relay vs. transfer).
- h. The Contractor shall analyze the backup plan of ECDs in case of power or equipment failure. Include in the report contemplated by Section A.6.I., details of such plan and an opinion as to the effectiveness of the plan.
- i. The Contractor shall determine the number of telephone subscribers and the current number of N-G-911 trunks in an ECD, the current number of administrative lines being answered by an ECD and the ECD's current ability to answer calls; include this information in the report contemplated by Section A.6.I.
- j. The Contractor shall assess the efficiency and viability of ECD operations, current problems, needs and/or future requirements including but not limited to the planning and implementation of projects to modernize the State's 911 infrastructure through research and interviews with ECD Directors, Board Chairs and/or others.
- k. The Contractor shall assess the requirements for the implementation, operation, maintenance and enhancement of E- 911 service for PSAPs that have not yet implemented N-G-911 service.
- l. The Contractor shall prepare a report, detailing findings and recommendations regarding an ECD's and/or PSAP's operations, any current problems, needs and/or implementation requirements, including but not limited to the need for rate increases for such ECD, and submit said report to the Tennessee Emergency Communications Board Chair and Executive Director within thirty (30) days of completion of the above described review of operations of an ECD.
- m. The Contractor shall provide to the State, under a nondisclosure agreement technical, operational and financial advice on cost recovery plans, requests, approvals and policies for N-G-911 service.
- n. The Contractor shall review the operational costs of ECDs and PSAPs and provide advice regarding the viability of 911 funding.
- o. The Contractor shall provide annual assessment of TECB's adopted strategic plan with recommendations and updates.
- p. The Contractor shall provide support with TECB training services and online training platform.

- q. The Contractor shall provide support with future TECB contract negotiations and Statement of Work development.
 - r. The Contractor shall provide support to ECB with grant writing.
 - s. The Contractor shall provide support to TECB with continuity of operations planning, development, and auditing.
 - t. The Contractor shall provide project management support for specific tasks and projects.
- A.7. The Contractor shall assist the State and, if authorized, act as a representative thereof in meetings and otherwise, regardless of location, as to technical matters before the FCC, ECDs and other entities.
- A.8. The Contractor shall provide personnel for the following services which shall be defined as:
- a. Executive consulting and support services - Contractor personnel on the Contractor's executive and /or management teams.
 - b. Project Manager consulting and support services - Contractor personnel responsible for, but not limited to, leading the project, managing the project team and supporting positions, setting timelines goals and reporting on accomplishments to TECB and also to the Contractor's executive and/or management teams.
 - c. Senior Technical consulting and support services - Contractor personnel with technical expertise and senior level industry experience.
 - d. Junior Technical consulting and support services - Contractor personnel with technical expertise and junior level industry experience.
 - e. Administrative support services - Contractor personnel responsible for, but not limited to, scheduling, answering phones, typing, taking dictation, organization, printing collating, and similar duties.
- A.9. Warranty. Contractor represents and warrants that the term of the warranty ("Warranty Period") shall be the greater of the Term of this Contract or any other warranty generally offered by Contractor, its suppliers, or manufacturers to customers of its goods or services. The goods or services provided under this Contract shall conform to the terms and conditions of this Contract throughout the Warranty Period. Any nonconformance of the goods or services to the terms and conditions of this Contract shall constitute a "Defect" and shall be considered "Defective." If Contractor receives notice of a Defect during the Warranty Period, then Contractor shall correct the Defect, at no additional charge.

Contractor represents and warrants that the State is authorized to possess and use all equipment, materials, software, and deliverables provided under this Contract.

Contractor represents and warrants that all goods or services provided under this Contract shall be provided in a timely and professional manner, by qualified and skilled individuals, and in conformity with standards generally accepted in Contractor's industry.

If Contractor fails to provide the goods or services as warranted, then Contractor will re-provide the goods or services at no additional charge. If Contractor is unable or unwilling to re-provide the goods or services as warranted, then the State shall be entitled to recover the fees paid to Contractor for the Defective goods or services. Any exercise of the State's rights under this Section shall not prejudice the State's rights to seek any other remedies available under this Contract or applicable law.

- A.10. Inspection and Acceptance. The State shall have the right to inspect all goods or services provided by Contractor under this Contract. If, upon inspection, the State determines that the goods or services are Defective, the State shall notify Contractor, and Contractor shall re-deliver the goods or provide the services at no additional cost to the State. If after a period of thirty (30) days following delivery of goods or performance of services the State does not provide a notice of any Defects, the goods or services shall be deemed to have been accepted by the State.

B. TERM OF CONTRACT:

This Contract shall be effective on July 1, 2018, ("Effective Date") and extend for a period of sixty (60) months after the Effective Date ("Term"). The State shall have no obligation for goods or services provided by the Contractor prior to the Effective Date.

C. PAYMENT TERMS AND CONDITIONS:

- C.1. Maximum Liability. In no event shall the maximum liability of the State under this Contract exceed one million nine hundred nine thousand dollars (\$1,909,000.00) ("Maximum Liability"). This Contract does not grant the Contractor any exclusive rights. The State does not guarantee that it will buy any minimum quantity of goods or services under this Contract. Subject to the terms and conditions of this Contract, the Contractor will only be paid for goods or services provided under this Contract after a purchase order is issued to Contractor by the State or as otherwise specified by this Contract.
- C.2. Compensation Firm. The payment methodology in Section C.3. and the Travel Compensation provided in Section C.4. shall constitute the entire compensation due the Contractor for all goods or services provided under this Contract regardless of the difficulty, materials or equipment required. The payment methodology includes all applicable taxes, fees, overhead, and all other direct or indirect costs incurred or to be incurred by the Contractor.
- C.3. Payment Methodology. The Contractor shall be compensated based on the payment methodology for goods or services authorized by the State in a total amount as set forth in Section C.1.
- a. The Contractor's compensation shall be contingent upon the satisfactory provision of goods or services as set forth in Section A.
 - b. The Contractor shall be compensated based upon the following payment rates:
 - (1) For service performed from July 1, 2018, through June 30, 2021, the following rates shall apply:

Goods or Services Description	Amount (per compensable increment)
Executive consulting and support services	\$ 258.00 per hour
Project Manager consulting and support services	\$ 219.00 per hour
Senior Technical consulting and support services	\$ 212.00 per hour
Junior Technical consulting and support services	\$ 185.00 per hour
Administrative support services	\$ 97.00 per hour

- (2) For service performed from July 1, 2021, through June 30, 2023, the Contractor shall be compensated based upon the payment rates in Section Reference (e.g., C.3.b.(1)) above but adjusted by the percentage increase, if any, between the Consumer Price Index for All Urban Consumers (CPI-U): U.S. city average, All Items /Medical Care expenditure category, not seasonally adjusted, index base period: 1982-84=100) published by the United States Department of Labor, Bureau of Labor Statistics in June 2021 and that figure published in the same month, 12-months prior, up to a maximum of five percent (5%).
- c. The Contractor shall not be compensated for travel time to or from the primary location services are provided.
- C.4. Travel Compensation. Compensation to the Contractor for travel, meals, or lodging shall be subject to amounts and limitations specified in the "State Comprehensive Travel Regulations," as they are amended from time to time.
- The Contractor must include (in addition to other invoice requirements of this Contract) a complete itemization of travel compensation requested in accordance with and attaching to the invoice appropriate documentation and receipts as required by the above-referenced "State Comprehensive Travel Regulations."
- C.5. Invoice Requirements. The Contractor shall invoice the State only for goods delivered and accepted by the State or services satisfactorily provided at the amounts stipulated in Section C.3., above. Contractor shall submit invoices and necessary supporting documentation, no more frequently than once a month, and no later than thirty (30) days after goods or services have been provided to the following address:

Tennessee Department of Commerce and Insurance
Attention: Accounts Payable
500 James Robertson Parkway
Nashville, TN 37243-1166
ciaccounts.payable@tn.gov

- a. Each invoice, on Contractor's letterhead, shall clearly and accurately detail all of the following information (calculations must be extended and totaled correctly):
- (1) Invoice number (assigned by the Contractor);
 - (2) Invoice date;
 - (3) Contract number (assigned by the State);
 - (4) Customer account name: Department of Commerce and Insurance, Emergency Communications Board;
 - (5) Customer account number (assigned by the Contractor to the above-referenced Customer);
 - (6) Contractor name;
 - (7) Contractor Tennessee Edison registration ID number;
 - (8) Contractor contact for invoice questions (name, phone, or email);
 - (9) Contractor remittance address;
 - (10) Description of delivered goods or services provided and invoiced, including identifying information as applicable;
 - (11) Number of delivered or completed units, increments, hours, or days as applicable, of each good or service invoiced;
 - (12) Applicable payment methodology (as stipulated in Section C.3.) of each good or service invoiced;
 - (13) Amount due for each compensable unit of good or service; and
 - (14) Total amount due for the invoice period.

b. Contractor's invoices shall:

- (1) Only include charges for goods delivered or services provided as described in Section A. and in accordance with payment terms and conditions set forth in Section C;
- (2) Only be submitted for goods delivered or services completed and shall not include any charge for future goods to be delivered or services to be performed;
- (3) Not include Contractor's taxes, which includes without limitation Contractor's sales and use tax, excise taxes, franchise taxes, real or personal property taxes, or income taxes; and
- (4) Include shipping or delivery charges only as authorized in this Contract.

c. The timeframe for payment (or any discounts) begins only when the State is in receipt of an invoice that meets the minimum requirements of this Section C.5.

C.6. Payment of Invoice. A payment by the State shall not prejudice the State's right to object to or question any payment, invoice, or other matter. A payment by the State shall not be construed as acceptance of goods delivered, any part of the services provided, or as approval of any amount invoiced.

C.7. Invoice Reductions. The Contractor's invoice shall be subject to reduction for amounts included in any invoice or payment that is determined by the State, on the basis of audits conducted in accordance with the terms of this Contract, to not constitute proper compensation for goods delivered or services provided.

C.8. Deductions. The State reserves the right to deduct from amounts, which are or shall become due and payable to the Contractor under this or any contract between the Contractor and the State of Tennessee, any amounts that are or shall become due and payable to the State of Tennessee by the Contractor.

C.9. Prerequisite Documentation. The Contractor shall not invoice the State under this Contract until the State has received the following, properly completed documentation.

- a. The Contractor shall complete, sign, and present to the State the "Authorization Agreement for Automatic Deposit Form" provided by the State. By doing so, the Contractor acknowledges and agrees that, once this form is received by the State, payments to the Contractor, under this or any other contract the Contractor has with the State of Tennessee, may be made by ACH; and
- b. The Contractor shall complete, sign, and return to the State the State-provided W-9 form. The taxpayer identification number on the W-9 form must be the same as the Contractor's Federal Employer Identification Number or Social Security Number referenced in the Contractor's Edison registration information.

D. MANDATORY TERMS AND CONDITIONS:

D.1. Required Approvals. The State is not bound by this Contract until it is duly approved by the Parties and all appropriate State officials in accordance with applicable Tennessee laws and regulations. Depending upon the specifics of this Contract, this may include approvals by the Commissioner of Finance and Administration, the Commissioner of Human Resources, the Comptroller of the Treasury, and the Chief Procurement Officer. Approvals shall be evidenced by a signature or electronic approval.

- D.2. Communications and Contacts. All instructions, notices, consents, demands, or other communications required or contemplated by this Contract shall be in writing and shall be made by certified, first class mail, return receipt requested and postage prepaid, by overnight courier service with an asset tracking system, or by email or facsimile transmission with recipient confirmation. All communications, regardless of method of transmission, shall be addressed to the respective Party at the appropriate mailing address, facsimile number, or email address as stated below or any other address provided in writing by a Party.

The State:

Curtis Sutton, Executive Director
Tennessee Emergency Communications Board
500 James Robertson Parkway
Nashville TN 37243
curtis.sutton@tn.gov
Phone: (615) 253-2164
The Contractor:

David F. Jones, ENP
Mission Critical Partners, LLC
502 North Carroll Avenue, Suite 120
Southlake, TX 76092
Email: davidjones@mcp911.com
Phone: (817) 213-6919
FAX: (814) 217-6807

All instructions, notices, consents, demands, or other communications shall be considered effective upon receipt or recipient confirmation as may be required.

- D.3. Modification and Amendment. This Contract may be modified only by a written amendment signed by all Parties and approved by all applicable State officials.
- D.4. Subject to Funds Availability. The Contract is subject to the appropriation and availability of State or federal funds. In the event that the funds are not appropriated or are otherwise unavailable, the State reserves the right to terminate this Contract upon written notice to the Contractor. The State's exercise of its right to terminate this Contract shall not constitute a breach of Contract by the State. Upon receipt of the written notice, the Contractor shall cease all work associated with the Contract. If the State terminates this Contract due to lack of funds availability, the Contractor shall be entitled to compensation for all conforming goods requested and accepted by the State and for all satisfactory and authorized services completed as of the termination date. Should the State exercise its right to terminate this Contract due to unavailability of funds, the Contractor shall have no right to recover from the State any actual, general, special, incidental, consequential, or any other damages of any description or amount.
- D.5. Termination for Convenience. The State may terminate this Contract for convenience without cause and for any reason. The State shall give the Contractor at least thirty (30) days written notice before the termination date. The Contractor shall be entitled to compensation for all conforming goods delivered and accepted by the State or for satisfactory, authorized services completed as of the termination date. In no event shall the State be liable to the Contractor for compensation for any goods neither requested nor accepted by the State or for any services neither requested by the State nor satisfactorily performed by the Contractor. In no event shall the State's exercise of its right to terminate this Contract for convenience relieve the Contractor of any liability to the State for any damages or claims arising under this Contract.
- D.6. Termination for Cause. If the Contractor fails to properly perform its obligations under this Contract in a timely or proper manner, or if the Contractor materially violates any terms of this

Contract ("Breach Condition"), the State shall have the right to immediately terminate the Contract and withhold payments in excess of compensation for completed services or provided goods. Notwithstanding the above, the Contractor shall not be relieved of liability to the State for damages sustained by virtue of any Breach Condition and the State may seek other remedies allowed at law or in equity for breach of this Contract.

D.7. Assignment and Subcontracting. The Contractor shall not assign this Contract or enter into a subcontract for any of the goods or services provided under this Contract without the prior written approval of the State. Notwithstanding any use of the approved subcontractors, the Contractor shall be the prime contractor and responsible for compliance with all terms and conditions of this Contract. The State reserves the right to request additional information or impose additional terms and conditions before approving an assignment of this Contract in whole or in part or the use of subcontractors in fulfilling the Contractor's obligations under this Contract.

D.8. Conflicts of Interest. The Contractor warrants that no part of the Contractor's compensation shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to the Contractor in connection with any work contemplated or performed under this Contract.

The Contractor acknowledges, understands, and agrees that this Contract shall be null and void if the Contractor is, or within the past six (6) months has been, an employee of the State of Tennessee or if the Contractor is an entity in which a controlling interest is held by an individual who is, or within the past six (6) months has been, an employee of the State of Tennessee.

D.9. Nondiscrimination. The Contractor hereby agrees, warrants, and assures that no person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of this Contract or in the employment practices of the Contractor on the grounds of handicap or disability, age, race, creed, color, religion, sex, national origin, or any other classification protected by federal or state law. The Contractor shall, upon request, show proof of nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.

D.10. Prohibition of Illegal Immigrants. The requirements of Tenn. Code Ann. § 12-3-309 addressing the use of illegal immigrants in the performance of any contract to supply goods or services to the state of Tennessee, shall be a material provision of this Contract, a breach of which shall be grounds for monetary and other penalties, up to and including termination of this Contract.

a. The Contractor agrees that the Contractor shall not knowingly utilize the services of an illegal immigrant in the performance of this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant in the performance of this Contract. The Contractor shall reaffirm this attestation, in writing, by submitting to the State a completed and signed copy of the document at Attachment A, semi-annually during the Term. If the Contractor is a party to more than one contract with the State, the Contractor may submit one attestation that applies to all contracts with the State. All Contractor attestations shall be maintained by the Contractor and made available to State officials upon request.

b. Prior to the use of any subcontractor in the performance of this Contract, and semi-annually thereafter, during the Term, the Contractor shall obtain and retain a current, written attestation that the subcontractor shall not knowingly utilize the services of an illegal immigrant to perform work under this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant to perform work under this Contract. Attestations obtained from subcontractors shall be maintained by the Contractor and made available to State officials upon request.

- c. The Contractor shall maintain records for all personnel used in the performance of this Contract. Contractor's records shall be subject to review and random inspection at any reasonable time upon reasonable notice by the State.
 - d. The Contractor understands and agrees that failure to comply with this section will be subject to the sanctions of Tenn. Code Ann. § 12-3-309 for acts or omissions occurring after its effective date.
 - e. For purposes of this Contract, "illegal immigrant" shall be defined as any person who is not: (i) a United States citizen; (ii) a Lawful Permanent Resident; (iii) a person whose physical presence in the United States is authorized; (iv) allowed by the federal Department of Homeland Security and who, under federal immigration laws or regulations, is authorized to be employed in the U.S.; or (v) is otherwise authorized to provide services under the Contract.
- D.11. Records. The Contractor shall maintain documentation for all charges under this Contract. The books, records, and documents of the Contractor, for work performed or money received under this Contract, shall be maintained for a period of five (5) full years from the date of the final payment and shall be subject to audit at any reasonable time and upon reasonable notice by the State, the Comptroller of the Treasury, or their duly appointed representatives. The financial statements shall be prepared in accordance with generally accepted accounting principles.
- D.12. Monitoring. The Contractor's activities conducted and records maintained pursuant to this Contract shall be subject to monitoring and evaluation by the State, the Comptroller of the Treasury, or their duly appointed representatives.
- D.13. Progress Reports. The Contractor shall submit brief, periodic, progress reports to the State as requested.
- D.14. Strict Performance. Failure by any Party to this Contract to require, in any one or more cases, the strict performance of any of the terms, covenants, conditions, or provisions of this Contract shall not be construed as a waiver or relinquishment of any term, covenant, condition, or provision. No term or condition of this Contract shall be held to be waived, modified, or deleted except by a written amendment signed by the Parties.
- D.15. Independent Contractor. The Parties shall not act as employees, partners, joint venturers, or associates of one another. The Parties are independent contracting entities. Nothing in this Contract shall be construed to create an employer/employee relationship or to allow either Party to exercise control or direction over the manner or method by which the other transacts its business affairs or provides its usual services. The employees or agents of one Party are not employees or agents of the other Party.
- D.16. Patient Protection and Affordable Care Act. The Contractor agrees that it will be responsible for compliance with the Patient Protection and Affordable Care Act ("PPACA") with respect to itself and its employees, including any obligation to report health insurance coverage, provide health insurance coverage, or pay any financial assessment, tax, or penalty for not providing health insurance. The Contractor shall indemnify the State and hold it harmless for any costs to the State arising from Contractor's failure to fulfill its PPACA responsibilities for itself or its employees.
- D.17. Limitation of State's Liability. The State shall have no liability except as specifically provided in this Contract. In no event will the State be liable to the Contractor or any other party for any lost revenues, lost profits, loss of business, decrease in the value of any securities or cash position, time, goodwill, or any indirect, special, incidental, punitive, exemplary or consequential damages of any nature, whether based on warranty, contract, statute, regulation, tort (including but not limited to negligence), or any other legal theory that may arise under this Contract or otherwise.

The State's total liability under this Contract (including any exhibits, schedules, amendments or other attachments to the Contract) or otherwise shall under no circumstances exceed the Maximum Liability. This limitation of liability is cumulative and not per incident.

- D.18. Limitation of Contractor's Liability. In accordance with Tenn. Code Ann. § 12-3-701, the Contractor's liability for all claims arising under this Contract shall be limited to an amount equal to two (2) times the Maximum Liability amount detailed in Section C.1. and as may be amended, PROVIDED THAT in no event shall this Section limit the liability of the Contractor for: (i) intellectual property or any Contractor indemnity obligations for infringement for third-party intellectual property rights; (ii) any claims covered by any specific provision in the Contract providing for liquidated damages; or (iii) any claims for intentional torts, criminal acts, fraudulent conduct, or acts or omissions that result in personal injuries or death.
- D.19. Hold Harmless. The Contractor agrees to indemnify and hold harmless the State of Tennessee as well as its officers, agents, and employees from and against any and all claims, liabilities, losses, and causes of action which may arise, accrue, or result to any person, firm, corporation, or other entity which may be injured or damaged as a result of acts, omissions, or negligence on the part of the Contractor, its employees, or any person acting for or on its or their behalf relating to this Contract. The Contractor further agrees it shall be liable for the reasonable cost of attorneys for the State to enforce the terms of this Contract.

In the event of any suit or claim, the Parties shall give each other immediate notice and provide all necessary assistance to respond. The failure of the State to give notice shall only relieve the Contractor of its obligations under this Section to the extent that the Contractor can demonstrate actual prejudice arising from the failure to give notice. This Section shall not grant the Contractor, through its attorneys, the right to represent the State in any legal matter, as the right to represent the State is governed by Tenn. Code Ann. § 8-6-106.

- D.20. HIPAA Compliance. The State and Contractor shall comply with obligations under the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), Health Information Technology for Economic and Clinical Health ("HITECH") Act and any other relevant laws and regulations regarding privacy (collectively the "Privacy Rules"). The obligations set forth in this Section shall survive the termination of this Contract.
- a. Contractor warrants to the State that it is familiar with the requirements of the Privacy Rules, and will comply with all applicable requirements in the course of this Contract.
 - b. Contractor warrants that it will cooperate with the State, including cooperation and coordination with State privacy officials and other compliance officers required by the Privacy Rules, in the course of performance of the Contract so that both parties will be in compliance with the Privacy Rules.
 - c. The State and the Contractor will sign documents, including but not limited to business associate agreements, as required by the Privacy Rules and that are reasonably necessary to keep the State and Contractor in compliance with the Privacy Rules. This provision shall not apply if information received or delivered by the parties under this Contract is NOT "protected health information" as defined by the Privacy Rules, or if the Privacy Rules permit the parties to receive or deliver the information without entering into a business associate agreement or signing another document.
 - d. The Contractor will indemnify the State and hold it harmless for any violation by the Contractor or its subcontractors of the Privacy Rules. This includes the costs of responding to a breach of protected health information, the costs of responding to a government enforcement action related to the breach, and any fines, penalties, or damages paid by the State because of the violation.

- D.21. Tennessee Consolidated Retirement System. Subject to statutory exceptions contained in Tenn. Code Ann. §§ 8-36-801, *et seq.*, the law governing the Tennessee Consolidated Retirement System ("TCRS"), provides that if a retired member of TCRS, or of any superseded system administered by TCRS, or of any local retirement fund established under Tenn. Code Ann. §§ 8-35-101, *et seq.*, accepts State employment, the member's retirement allowance is suspended during the period of the employment. Accordingly and notwithstanding any provision of this Contract to the contrary, the Contractor agrees that if it is later determined that the true nature of the working relationship between the Contractor and the State under this Contract is that of "employee/employer" and not that of an independent contractor, the Contractor, if a retired member of TCRS, may be required to repay to TCRS the amount of retirement benefits the Contractor received from TCRS during the Term.
- D.22. Tennessee Department of Revenue Registration. The Contractor shall comply with all applicable registration requirements contained in Tenn. Code Ann. §§ 67-6-601 – 608. Compliance with applicable registration requirements is a material requirement of this Contract.
- D.23. Debarment and Suspension. The Contractor certifies, to the best of its knowledge and belief, that it, its current and future principals, its current and future subcontractors and their principals:
- a. are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal or state department or agency;
 - b. have not within a three (3) year period preceding this Contract been convicted of, or had a civil judgment rendered against them from commission of fraud, or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or grant under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property;
 - c. are not presently indicted or otherwise criminally or civilly charged by a government entity (federal, state, or local) with commission of any of the offenses detailed in section b. of this certification; and
 - d. have not within a three (3) year period preceding this Contract had one or more public transactions (federal, state, or local) terminated for cause or default.

The Contractor shall provide immediate written notice to the State if at any time it learns that there was an earlier failure to disclose information or that due to changed circumstances, its principals or the principals of its subcontractors are excluded, disqualified, or presently fall under any of the prohibitions of sections a. - d.

- D.24. Force Majeure. "Force Majeure Event" means fire, flood, earthquake, elements of nature or acts of God, wars, riots, civil disorders, rebellions or revolutions, acts of terrorism or any other similar cause beyond the reasonable control of the Party except to the extent that the non-performing Party is at fault in failing to prevent or causing the default or delay, and provided that the default or delay cannot reasonably be circumvented by the non-performing Party through the use of alternate sources, workaround plans or other means. A strike, lockout or labor dispute shall not excuse either Party from its obligations under this Contract. Except as set forth in this Section, any failure or delay by a Party in the performance of its obligations under this Contract arising from a Force Majeure Event is not a default under this Contract or grounds for termination. The non-performing Party will be excused from performing those obligations directly affected by the Force Majeure Event, and only for as long as the Force Majeure Event continues, provided that the Party continues to use diligent, good faith efforts to resume performance without delay. The occurrence of a Force Majeure Event affecting Contractor's representatives, suppliers, subcontractors, customers or business apart from this Contract is not a Force Majeure Event

under this Contract. Contractor will promptly notify the State of any delay caused by a Force Majeure Event (to be confirmed in a written notice to the State within one (1) day of the inception of the delay) that a Force Majeure Event has occurred, and will describe in reasonable detail the nature of the Force Majeure Event. If any Force Majeure Event results in a delay in Contractor's performance longer than forty-eight (48) hours, the State may, upon notice to Contractor: (a) cease payment of the fees until Contractor resumes performance of the affected obligations; or (b) immediately terminate this Contract or any purchase order, in whole or in part, without further payment except for fees then due and payable. Contractor will not increase its charges under this Contract or charge the State any fees other than those provided for in this Contract as the result of a Force Majeure Event.

- D.25. State and Federal Compliance. The Contractor shall comply with all applicable state and federal laws and regulations in the performance of this Contract.
- D.26. Governing Law. This Contract shall be governed by and construed in accordance with the laws of the State of Tennessee. The Tennessee Claims Commission or the state or federal courts in Tennessee shall be the venue for all claims, disputes, or disagreements arising under this Contract. The Contractor acknowledges and agrees that any rights, claims, or remedies against the State of Tennessee or its employees arising under this Contract shall be subject to and limited to those rights and remedies available under Tenn. Code Ann. §§ 9-8-101 - 407.
- D.27. Entire Agreement. This Contract is complete and contains the entire understanding between the Parties relating to its subject matter, including all the terms and conditions of the Parties' agreement. This Contract supersedes any and all prior understandings, representations, negotiations, and agreements between the Parties, whether written or oral.
- D.28. Severability. If any terms and conditions of this Contract are held to be invalid or unenforceable as a matter of law, the other terms and conditions of this Contract shall not be affected and shall remain in full force and effect. The terms and conditions of this Contract are severable.
- D.29. Headings. Section headings of this Contract are for reference purposes only and shall not be construed as part of this Contract.
- D.30. Incorporation of Additional Documents. Each of the following documents is included as a part of this Contract by reference. In the event of a discrepancy or ambiguity regarding the Contractor's duties, responsibilities, and performance under this Contract, these items shall govern in order of precedence below:
- a. any amendment to this Contract, with the latter in time controlling over any earlier amendments;
 - b. this Contract with any attachments or exhibits (excluding the items listed at subsections c. through f., below), which includes Attachment A;
 - c. any clarifications of or addenda to the Contractor's proposal seeking this Contract;
 - d. the State solicitation, as may be amended, requesting responses in competition for this Contract;
 - e. any technical specifications provided to proposers during the procurement process to award this Contract; and
 - f. the Contractor's response seeking this Contract.
- D.31. Iran Divestment Act. The requirements of Tenn. Code Ann. § 12-12-101 et.seq., addressing contracting with persons as defined at T.C.A. §12-12-103(5) that engage in investment activities in Iran, shall be a material provision of this Contract. The Contractor certifies, under penalty of perjury, that to the best of its knowledge and belief that it is not on the list created pursuant to Tenn. Code Ann. § 12-12-106.

D.32. Insurance. Contractor shall maintain insurance coverage as specified in this Section. The State reserves the right to amend or require additional insurance coverage, coverage amounts, and endorsements required under this Contract. Contractor's failure to maintain or submit evidence of insurance coverage, as required, is a material breach of this Contract. If Contractor loses insurance coverage, fails to renew coverage, or for any reason becomes uninsured during the Term, Contractor shall immediately notify the State. All insurance companies providing coverage must be: (a) acceptable to the State; (b) authorized by the Tennessee Department of Commerce and Insurance ("TDCI"); and (c) rated A- / VII or better by A.M. Best. All coverage must be on a primary basis and noncontributory with any other insurance or self-insurance carried by the State. Contractor agrees to name the State as an additional insured on any insurance policy with the exception of workers' compensation (employer liability) and professional liability (errors and omissions) insurance. All policies must contain an endorsement for a waiver of subrogation in favor of the State. Any deductible over fifty thousand dollars (\$50,000) must be approved by the State. The deductible and any premiums are the Contractor's sole responsibility. The Contractor agrees that the insurance requirements specified in this Section do not reduce any liability the Contractor has assumed under this Contract including any indemnification or hold harmless requirements.

To achieve the required coverage amounts, a combination of an otherwise deficient specific policy and an umbrella policy with an aggregate meeting or exceeding the required coverage amounts is acceptable. For example: If the required policy limit under this Contract is for two million dollars (\$2,000,000) in coverage, acceptable coverage would include a specific policy covering one million dollars (\$1,000,000) combined with an umbrella policy for an additional one million dollars (\$1,000,000). If the deficient underlying policy is for a coverage area without aggregate limits (generally Automobile Liability and Employers' Liability Accident), Contractor shall provide a copy of the umbrella insurance policy documents to ensure that no aggregate limit applies to the umbrella policy for that coverage area.

Contractor shall provide the State a certificate of insurance ("COI") evidencing the coverages and amounts specified in this Section. The COI must be on a form approved by the TDCI (standard ACORD form preferred). The COI must list each insurer's National Association of Insurance Commissioners (NAIC) number and be signed by an authorized representative of the insurer. The COI must list the State of Tennessee – CPO Risk Manager, 312 Rosa L. Parks Ave., 3rd floor Central Procurement Office, Nashville, TN 37243 as the certificate holder. Contractor shall provide the COI ten (10) business days prior to the Effective Date and again thirty (30) calendar days before renewal or replacement of coverage. Contractor shall provide the State evidence that all subcontractors maintain the required insurance or that subcontractors are included under the Contractor's policy. At any time, the State may require Contractor to provide a valid COI. The parties agree that failure to provide evidence of insurance coverage as required is a material breach of this Contract. If Contractor self-insures, then a COI will not be required to prove coverage. Instead Contractor shall provide a certificate of self-insurance or a letter, on Contractor's letterhead, detailing its coverage, policy amounts, and proof of funds to reasonably cover such expenses.

The State agrees that it shall give written notice to the Contractor as soon as practicable after the State becomes aware of any claim asserted or made against the State, but in no event later than thirty (30) calendar days after the State becomes aware of such claim. The failure of the State to give notice shall only relieve the Contractor of its obligations under this Section to the extent that the Contractor can demonstrate actual prejudice arising from the failure to give notice. This Section shall not grant the Contractor or its insurer, through its attorneys, the right to represent the State in any legal matter, as the right to represent the State is governed by Tenn. Code Ann. § 8-6-106.

The Contractor shall obtain and maintain, at a minimum, the following insurance coverages and policy limits.

a. Commercial General Liability Insurance

- 1) The Contractor shall maintain commercial general liability insurance, which shall be written on an Insurance Services Office, Inc. (also known as ISO) occurrence form (or a substitute form providing equivalent coverage) and shall cover liability arising from property damage, premises/operations, independent contractors, contractual liability, completed operations/products, personal and advertising injury, and liability assumed under an insured contract (including the tort liability of another assumed in a business contract).

The Contractor shall maintain bodily injury/property damage with a combined single limit not less than one million dollars (\$1,000,000) per occurrence and two million dollars (\$2,000,000) aggregate for bodily injury and property damage, including products and completed operations coverage with an aggregate limit of at least two million dollars (\$2,000,000).

b. Workers' Compensation and Employer Liability Insurance

- 1) For Contractors statutorily required to carry workers' compensation and employer liability insurance, the Contractor shall maintain:
 - i. Workers' compensation and employer liability insurance in the amounts required by appropriate state statutes.
- 2) If the Contractor certifies that it is exempt from the requirements of Tenn. Code Ann. §§ 50-6-101 – 103, then the Contractor shall furnish written proof of such exemption for one or more of the following reasons:
 - i. The Contractor employs fewer than five (5) employees;
 - ii. The Contractor is a sole proprietor;
 - iii. The Contractor is in the construction business or trades with no employees;
 - iv. The Contractor is in the coal mining industry with no employees;
 - v. The Contractor is a state or local government; or
 - vi. The Contractor self-insures its workers' compensation and is in compliance with the TDCI rules and Tenn. Code Ann. § 50-6-405.

- D.33. Major Procurement Contract Sales and Use Tax. Pursuant to Tenn. Code Ann. § 4-39-102 and to the extent applicable, the Contractor and the Contractor's subcontractors shall remit sales and use taxes on the sales of goods or services that are made by the Contractor or the Contractor's subcontractors and that are subject to tax.

E. SPECIAL TERMS AND CONDITIONS:

- E.1. Conflicting Terms and Conditions. Should any of these special terms and conditions conflict with any other terms and conditions of this Contract, the special terms and conditions shall be subordinate to the Contract's other terms and conditions.
- E.2. Confidentiality of Records. Strict standards of confidentiality of records and information shall be maintained in accordance with applicable state and federal law. All material and information, regardless of form, medium or method of communication, provided to the Contractor by the State or acquired by the Contractor on behalf of the State that is regarded as confidential under state or federal law shall be regarded as "Confidential Information." Nothing in this Section shall permit Contractor to disclose any Confidential Information, regardless of whether it has been disclosed or made available to the Contractor due to intentional or negligent actions or inactions of agents

of the State or third parties. Confidential Information shall not be disclosed except as required or permitted under state or federal law. Contractor shall take all necessary steps to safeguard the confidentiality of such material or information in conformance with applicable state and federal law.

The obligations set forth in this Section shall survive the termination of this Contract.

- E.3. State Ownership of Goods. The State shall have ownership, right, title, and interest in all goods provided by Contractor under this Contract including full rights to use the goods and transfer title in the goods to any third parties.
- E.4. Additional lines, items, or options. At its sole discretion, the State may make written requests to the Contractor to add lines, items, or options that are needed and within the Scope but were not included in the original Contract. Such lines, items, or options will be added to the Contract through a Memorandum of Understanding ("MOU"), not an amendment.
- a. After the Contractor receives a written request to add lines, items, or options, the Contractor shall have ten (10) business days to respond with a written proposal. The Contractor's written proposal shall include:
 - (1) The effect, if any, of adding the lines, items, or options on the other goods or services required under the Contract;
 - (2) Any pricing related to the new lines, items, or options;
 - (3) The expected effective date for the availability of the new lines, items, or options; and
 - (4) Any additional information requested by the State.
 - b. The State may negotiate the terms of the Contractor's proposal by requesting revisions to the proposal.
 - c. To indicate acceptance of a proposal, the State will sign it. The signed proposal shall constitute a MOU between the Parties, and the lines, items, or options shall be incorporated into the Contract as if set forth verbatim.
 - d. Only after a MOU has been executed shall the Contractor perform or deliver the new lines, items, or options.
- E.5. Contractor Commitment to Diversity. The Contractor shall comply with and make reasonable business efforts to exceed the commitment to diversity represented by the Contractor's Response to Solicitation Number (Attachment Reference) and resulting in this Contract.

The Contractor shall assist the State in monitoring the Contractor's performance of this commitment by providing, as requested, a monthly report of participation in the performance of this Contract by small business enterprises and businesses owned by minorities, women, service-disabled veterans, and persons with disabilities. Such reports shall be provided to the State of Tennessee Governor's Office of Diversity Business Enterprise in the TN Diversity Software available online at:

<https://tn.diversitysoftware.com/FrontEnd/StartCertification.asp?TN=tn&XID=9810>.

- E.6. Personally Identifiable Information. While performing its obligations under this Contract, Contractor may have access to Personally Identifiable Information held by the State ("PII"). For the purposes of this Contract, "PII" includes "Nonpublic Personal Information" as that term is defined in Title V of the Gramm-Leach-Bliley Act of 1999 or any successor federal statute, and the rules and regulations thereunder, all as may be amended or supplemented from time to time ("GLBA") and personally identifiable information and other data protected under any other applicable laws, rule or regulation of any jurisdiction relating to disclosure or use of personal information ("Privacy Laws"). Contractor agrees it shall not do or omit to do anything which would cause the State to be in breach of any Privacy Laws. Contractor shall, and shall cause its employees, agents and representatives to: (i) keep PII confidential and may use and disclose PII only as necessary to carry out those specific aspects of the purpose for which the PII was

disclosed to Contractor and in accordance with this Contract, GLBA and Privacy Laws; and (ii) implement and maintain appropriate technical and organizational measures regarding information security to: (A) ensure the security and confidentiality of PII; (B) protect against any threats or hazards to the security or integrity of PII; and (C) prevent unauthorized access to or use of PII. Contractor shall immediately notify State: (1) of any disclosure or use of any PII by Contractor or any of its employees, agents and representatives in breach of this Contract; and (2) of any disclosure of any PII to Contractor or its employees, agents and representatives where the purpose of such disclosure is not known to Contractor or its employees, agents and representatives. The State reserves the right to review Contractor's policies and procedures used to maintain the security and confidentiality of PII and Contractor shall, and cause its employees, agents and representatives to, comply with all reasonable requests or directions from the State to enable the State to verify and/or procure that Contractor is in full compliance with its obligations under this Contract in relation to PII. Upon termination or expiration of the Contract or at the State's direction at any time in its sole discretion, whichever is earlier, Contractor shall immediately return to the State any and all PII which it has received under this Contract and shall destroy all records of such PII.

The Contractor shall report to the State any instances of unauthorized access to or potential disclosure of PII in the custody or control of Contractor ("Unauthorized Disclosure") that come to the Contractor's attention. Any such report shall be made by the Contractor within twenty-four (24) hours after the Unauthorized Disclosure has come to the attention of the Contractor. Contractor shall take all necessary measures to halt any further Unauthorized Disclosures. The Contractor, at the sole discretion of the State, shall provide no cost credit monitoring services for individuals whose PII was affected by the Unauthorized Disclosure. The Contractor shall bear the cost of notification to all individuals affected by the Unauthorized Disclosure, including individual letters and public notice. The remedies set forth in this Section are not exclusive and are in addition to any claims or remedies available to this State under this Contract or otherwise available at law.

IN WITNESS WHEREOF,

MISSION CRITICAL PARTNERS, LLC:



April 16, 2018

CONTRACTOR SIGNATURE

DATE

David F. Jones, Senior Vice President

PRINTED NAME AND TITLE OF CONTRACTOR SIGNATORY (above)

DEPARTMENT OF COMMERCE AND INSURANCE:



4/30/18

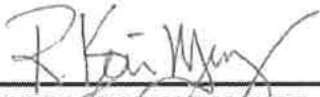
JULIE MIX MCPEAK, COMMISSIONER

DATE

ATTESTATION RE PERSONNEL USED IN CONTRACT PERFORMANCE

SUBJECT CONTRACT NUMBER:	33501-185006
CONTRACTOR LEGAL ENTITY NAME:	Mission Critical Partners, LLC
EDISON VENDOR IDENTIFICATION NUMBER:	218951

The Contractor, identified above, does hereby attest, certify, warrant, and assure that the Contractor shall not knowingly utilize the services of an illegal immigrant in the performance of this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant in the performance of this Contract.



CONTRACTOR SIGNATURE

NOTICE: This attestation MUST be signed by an individual empowered to contractually bind the Contractor. Attach evidence documenting the individual's authority to contractually bind the Contractor, unless the signatory is the Contractor's chief executive or president.

R. Kevin Murray, Chief Executive Officer

PRINTED NAME AND TITLE OF SIGNATORY

April 16, 2018

DATE OF ATTESTATION